

Title 19, Division 1, Chapter 14

INITIAL STATEMENT OF REASONS

Pursuant to Government Code §51010 and 51011, the State Fire Marshal shall exercise exclusive safety regulatory and enforcement authority over intrastate hazardous liquid pipelines and, to the extent authorized by agreement between the State Fire Marshal and the United States Secretary of Transportation, and may act as agent for the United States Secretary of Transportation to implement the federal Hazardous Liquid Pipeline Safety Act (49 U.S.C. Sec. 2001 et seq.) and federal pipeline safety regulations as to those portions of interstate pipelines located within this state, as necessary to obtain annual federal certification. The State Fire Marshal shall adopt hazardous liquid pipeline safety regulations in compliance with the federal law relating to hazardous liquid pipeline safety, including, but not limited to, compliance orders, penalties, and inspection and maintenance provisions, and including amendments to those laws and regulations which may be hereafter enacted and adopted.

In addition, pursuant to Government Code §51019, the State Fire Marshal may assess and collect from every pipeline operator an annual fee for the purpose of carrying out this chapter. The State Fire Marshal may assess this fee for expenses which will be incurred during the following year. A pipeline operator shall pay this fee when billed by the State Fire Marshal.

SPECIFIC PURPOSE AND RATIONALE

The proposed regulations will increase fees for pipeline operators from \$3,000 to \$6,000 and from \$150 to \$550 per mile of intrastate pipeline and from \$100 to \$300 per mile of interstate pipeline.

In the early years of the State Fire Marshal's pipeline safety program, income exceeded expenditures and the excess money collected was placed in a reserve account. This reserve reached a peak of approximately \$2 million dollars in the late 1990's. An internal audit of the program was conducted in 2005 to determine the condition of the pipeline safety fund. The results show that expenditures have exceeded income and that a drawdown of the reserve has been and is continuing to occur. Current balance is approximately \$1 million and without a fee increase, is expected to continue to decrease due to increased operating costs. The fees being modified have not been increased since 1987. Since that time, program costs have risen significantly due to inflation, rising personnel costs and pipeline program expansion. Current operating expenses are approximately \$2 million. The State Fire Marshal intends to fill five presently vacant pipeline safety engineering positions by FY 2008-09, bringing the projected operating expenses to approximately \$3 million. The State Fire Marshal annually receives grant monies from the U.S. Department of Transportation to help fund the state pipeline program. These monies have varied considerably from year to year and cannot be counted on to fund the program. The past monies received have helped to prolong the need for additional fee increases until now.

TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDY, OR REPORT

The State Fire Marshal has conducted an internal agency audit of the program costs associated with enforcement of the State's pipeline safety statutes and regulations and has followed the recommendation that fee increases are necessary in order to maintain the current level of pipeline safety in the State.

In addition, the State Fire Marshal utilized input from the State Fire Marshal's Pipeline Safety Advisory Committee and the Western States Petroleum Association.

REASONABLE ALTERNATIVES TO THE REGULATION AND THE STATE FIRE MARSHAL'S REASONS FOR REJECTING THOSE ALTERNATIVES

The State Fire Marshal staff has thoroughly reviewed this proposed regulatory action, including both the negative and positive impacts it will place upon industry. No alternatives considered by the State Fire Marshal would be more effective in carrying out the purpose for which the regulation is proposed, or would be as effective, or less burdensome to affected private persons than the proposed regulations.

ALTERNATIVES – SMALL BUSINESSES

The proposed regulations have no substantial effect to small business and the State Fire Marshal has not identified any alternatives that would lessen any adverse impact, if any, on small business.

EVIDENCE SUPPORTING FINDING OF NO SIGNIFICANT ADVERSE ECONOMIC IMPACT ON ANY BUSINESS

The State Fire Marshal can find no evidence that this action will have a significant adverse economic impact on any business.

COORDINATION WITH FEDERAL LAW

The State Fire Marshal has determined that this proposed regulatory action neither conflicts with, nor duplicates any federal regulation contained in the Code of Federal Regulations.

Specific sections which have been modified:

Section 2040 is being proposed to be amended to increase fees for pipeline operators from \$3,000 to \$6,000 and from \$150 to \$550 per mile of intrastate pipeline and from \$100 to \$300 per mile of interstate pipeline.

Necessity: The fees being amended have not been modified since 1987. Since that time, program cost has increased substantially. In addition, the fee increases are necessary in order to fund the five vacant positions which are projected to be filled in the coming years.